PB-217 733

DIGEST OF WATER POLLUTION CONTROL LEGISLATION: SOUTH CAROLINA

Public Health Service
Washington, D. C.

September 1958

DISTRIBUTED BY:

NTIS

National Technical Information Service
U. S. DEPARTMENT OF COMMERCE
5285 Port Royal Road, Springfield Va. 22151

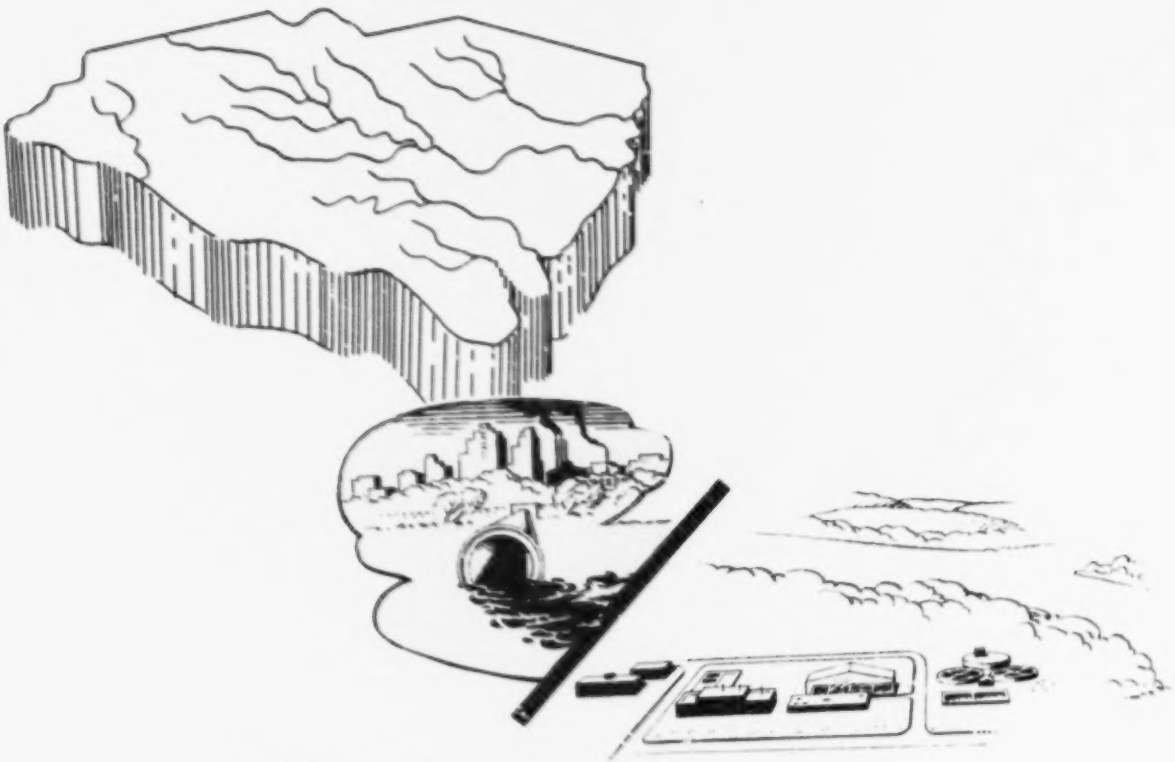
TD 420
Ref.

PB 217 733

LIBRARY
SANITARY ENGINEERING CENTER
CINCINNATI, OHIO

Digest of WATER POLLUTION CONTROL LEGISLATION

... South Carolina



Reproduced by
NATIONAL TECHNICAL
INFORMATION SERVICE
U.S. Department of Commerce
Springfield VA 22151

U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
Public Health Service

Section 3 of the Federal Water Pollution Control Act (33 U.S.C. 466b) directs the Public Health Service to "encourage the enactment of improved and, so far as practicable, uniform State laws relating to the prevention and control of water pollution."

This Digest is one of a series prepared by the Public Health Service as a service to the States and others interested in these objectives. Cooperation of State officials in the preparation of these digests is gratefully acknowledged.

September 1958

DIGEST OF SOUTH CAROLINA WATER POLLUTION CONTROL LEGISLATION

I. GENERAL STATEMENT

The Water Pollution Control Authority, created within the State Health Department, has the responsibility of preparing a general comprehensive program for the abatement and prevention of water pollution (70-110(11)). 1/

The Authority approves projects for which applications for loans or grants under the Federal Water Pollution Control Act are made by any municipality (including any city, town, district or other public body created by or pursuant to the laws of the State and having jurisdiction over disposal of sewage, industrial wastes or other wastes) or agency of the State or by an interstate agency. It is empowered to participate through its authorized representative in proceedings under the Federal Water Pollution Control Act to recommend measures for abatement of water pollution originating in the State; consent on behalf of the State to requests by the Federal Security Administrator (Secretary of Health, Education, and Welfare) to the Attorney General of the United States for the bringing of suit for abatement of such pollution; and consent to the joinder as a defendant to such suit of any person who is alleged to be discharging matter contributing to the pollution, abatement of which is sought in such suit (Sec. 70-110).

The Authority is further authorized to take all action necessary or appropriate to secure to the State the benefits of the Federal Water Pollution Control Act, and any and all other Federal and State acts concerning water pollution control (Sec. 70-111).

1/ Citations in this digest refer to South Carolina Code, 1952, and the 1957 Cumulative Supplement thereto, unless otherwise indicated.

"Pollution" is defined as the discharge or deposit into waters of the State of sewage, industrial waste or other wastes, or the effluent therefrom, in such manner, condition or quantity as may cause such waters to be contaminated to such extent as will or may contravene the standards of quality and purity established by the Authority for such waters (Sec. 70-101(7)).

The State Board of Health has the responsibility of inspecting watersheds and making chemical and bacteriological examinations of the public water supplies of the State as may be deemed necessary to insure their purity (Sec. 32-1203).

II. ADMINISTRATIVE ORGANIZATION

Water Pollution Control Authority

1. Composition and organization

The Authority is composed of 10 members; 7 are appointed by the Governor for four-year terms, except as to those first appointed, 2 are named by the Executive Committee of the State Board of Health from within its membership. The tenth member is the State Health Officer, ex officio, who serves as Chairman. The Authority selects an Executive Director who has such authority and performs such duties as directed by the Authority (Secs. 70-104, 70-106).

2. Powers and duties

a) Development of comprehensive program; classification of waters and setting standards of quality of waters

The Authority is authorized to prepare and develop a general comprehensive program for the abatement and prevention of water pollution (Sec. 70-110(11)). The Authority is empowered to classify the designated waters. Standards of quality and purity for each such classification are to be related to public use or benefit and may be later modified. Classi-

fications and standards may be adopted only after public hearings on due notice. They do not become effective until filed with the Secretary of State (Secs. 70-112, 70-115).

b) Issuance of permits and review of plans and specifications

The Authority issues, continues in effect, or denies permits, under such conditions as it may prescribe, for the prevention and abatement of pollution, for the discharge of sewage, industrial waste or other wastes or for the installation or operation of disposal systems or parts thereof. It may require plans for disposal systems or any part thereof to be submitted for approval and inspect the construction thereof for compliance with the approved plans (Secs. 70-110(5)(12)).

Anyone desiring to make any new outlet for the discharge of sewage, industrial waste or other wastes, or the effluent therefrom into State waters, must first make an application to the Authority for a permit to construct and use such outlet. If, after hearing, the Authority finds that the discharges from such proposed outlet will not be in contravention of the standards adopted, such permit is issued to the applicant. No one is permitted to make such an outlet without the prior issuance of such permit by the Authority (Sec. 70-117).

c) Enforcement

The Authority may conduct public hearings in connection with or prior to action in the following cases, either of its own volition or upon the request of persons affected by an order or determination:

1. An order requiring the discontinuance of discharge of sewage, industrial waste or other wastes into the State waters;

2. An order denying, revoking or modifying a permit;

3. A determination that a discharge constitutes pollution of waters of a marine district; and

4. Any other proceeding resulting in a determination that a discharge of sewage, industrial waste or other wastes into State waters contravenes the standards established for such waters (Sec. 70-125).

Hearings may be conducted by the Authority itself or it may delegate to any member or agent of the Authority the powers to hold such hearings, but the Authority makes all necessary decisions as to the matter under consideration (Sec. 70-126). A record or summary of the proceedings must be taken and filed with the Authority, and if requested by an interested party, a full stenographic transcript of the testimony presented at the hearing must be made and filed (Sec. 70-127). Any member of the Authority or any agent authorized may administer oaths, examine witnesses and issue in the name of the Authority notices of hearings and subpoenas requiring the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in any such hearing. Witnesses receive the same fees and mileage as in civil actions (Sec. 70-128). In case of refusal to obey a notice of hearing or subpoena, the Court of Common Pleas has jurisdiction, upon application of the Authority to issue an order enforcing such notice or subpoena. Failure to obey such order of the Court may be punished by the Court as a contempt thereof (Sec. 70-129). Any finding of the Authority is considered prima facie evidence of the fact so found (Sec. 70-130).

An aggrieved party may appeal from any order of the Authority within 30 days after the filing of the order, to the Court of Common Pleas of any county in which the waters involved are located. The Authority thereupon certifies to the Court the record in the hearing. The Court

reviews the record and the regularity and the justification for the order, on the merits, and renders judgment thereon as in ordinary appeals in equity. The Court may order or permit further testimony on the merits of the case, in its discretion, such testimony to be given either before the Judge or Referee by him appointed. A further appeal may be taken from the judgment of the Court as in other civil actions (Sec. 70-131).

The Attorney General is the legal advisor of the Authority and institutes, on request of the Authority, injunction proceedings or any other court action to accomplish the purposes of the Act (Sec.70-132).

Any person who willfully violates any final determination or order of the Authority is guilty of a misdemeanor, which is punishable by a fine of not less than $100.00 nor more than $500.00 or by imprisonment for a term of not more than one year, or both. Each day the violation continues is a separate offense (Sec. 70-133).

It is unlawful for anyone to discharge into any State waters matter that causes or tends to cause a condition of pollution in contravention of the standards adopted by the Authority (Sec. 70-116).

It is unlawful for anyone, until plans therefor have been approved by the Authority and a written permit therefor granted, to:

1. Construct a disposal system to discharge sewage, industrial waste or other wastes or the effluent therefrom, into State waters;

2. Make any change in any existing disposal system or part thereof that would materially alter the method or the effect of treating or disposing of the sewage, industrial waste or other wastes;

3. Operate such new system or existing system as so changed; or

4. Increase the load through existing outlets of sewage, industrial waste or other wastes into the waters of the State (Sec. 70-118).

No one is permitted to place or allow to run into the waters of the marine district or tributary thereto any sewage, industrial waste or other wastes in contravention of the standards adopted by the Authority. However, in the case of such discharges as were in existence on May 4, 1950, no final order of discontinuance is to be entered until 5 years after service of an order of the Authority, except that the State Board of Health may summarily order the discontinuance of the discharge of any waste that is found to be a menace or hazard to public health (Sec. 70-119).

Anyone who on May 4, 1950 was discharging sewage, industrial waste or other waste into State waters so as to cause pollution thereof, regardless of the time that such discharge began or whether such continued discharge has been by virtue of a permit issued by the State Health Officer, must discontinue such discharge upon receipt of a final order of the Authority. However, in the case of such discharges, except those discharges causing an actual or potential hazard to public health, no final order of discontinuance of discharge is to be entered until one year after service of an order of the Authority determining that it constitutes pollution in contravention of the standards adopted by the Authority and directing the alleged polluter to take steps to abate the polluting content of such discharge to conform to the standards of the Authority (Sec. 70-120).

If after public hearing, the Authority finds that it is impossible or impracticable for any person to comply with the standards or orders of the Authority as to the treatment of wastes because no adequate or practical method of disposal or treatment is known, the Authority may not order the abatement or cause suit or action to be brought to prevent or abate the discharge of such wastes during a period of time, not in excess of 5 years, as the Authority determines necessary to provide means for disposal or treatment of such wastes so as to comply with such standards. Extension of time beyond that set by the Authority after public hearing may be granted if the person involved shows that he has diligently tried to comply with the orders of the Authority. The burden of proof is upon the person seeking a postponment, or other relief. However, the State Board of Health may summarily order the discontinuance of the discharge of any waste that is found to be a menace or hazard to public health (Sec. 70-121).

d) Conduct of studies, investigations, and research

The Authority is empowered to conduct studies and research with respect to pollution abatement problems, disposal systems and treatment of sewage, industrial waste or other wastes, by all scientific methods and, if necessary, the use of mobile laboratories (Sec. 70-110(10)).

e) Cooperation with other public and private agencies

The Authority is authorized to cooperate with the Government of the United States, other States or any other agencies, official or unofficial, in respect to pollution control matters or for the formulation of interstate pollution control compacts (Sec. 70-110(9)). It also serves as the agency of the State for the receipt of moneys from the Federal Government or from other public or private agencies (Sec. 70-110).

f) Administrative powers

The Authority is authorized to hold hearings and issue orders and permits (Sec. 70-110(2)(3)(5)). It is empowered to promulgate rules and regulations. Before they become effective they must be filed with the Secretary of State (Secs. 70-108, 70-115, Vol. 7, pp. 855-859; 1957 Cum. Supp., pp. 83-187). It is empowered to administer oaths, examine witnesses and issue subpoenas (Sec. 70-128). The Authority, or its duly authorized agent, may enter at all reasonable times upon any property, public or private, for the purpose of inspecting and investigating conditions relating to pollution or the possible pollution of any State waters. The Authority, or any authorized employee, may examine any records or memoranda pertaining to the operation of a disposal system or treatment works (Sec. 70-123).

3. Preservation of existing rights and remedies

The Act provides additional and cumulative remedies to abate pollution of State waters and nothing contained in the Act abridges rights of action in the civil courts or remedies existing in equity or under the common law or statutory law, nor is any provision of the Act, or any act done by virtue thereof, to be construed as estopping the State, persons or municipalities, as riparian owners, or otherwise, in the exercise of their rights under the common law, statutory law or in equity to suppress nuisances or to abate any pollution (Sec. 70-137). Nothing in the Act is to be construed to postpone or abrogate the enforcement of the provisions of the public health laws of the State and the rules and regulations promulgated thereunder in respect to discharges causing actual or potential hazards to public health nor to prevent the State Board of Health from exercising its rights to prevent or abate nuisances (Sec. 70-139).

4. Statement of policy; severability clause

The Act declares it to be the public policy of the State that reasonable standards of purity of the State waters be maintained, consistent with public health, the public enjoyment of such waters, the propagation and protection of fish, shellfish and wildlife, the operation of existing industries and the future industrial development of the State with a reasonable balance of consideration of the public welfare and, to that end, that the use of reasonable methods to prevent and control pollution of the waters be required (Sec. 70-102).

The Act contains a severability clause (Acts and Joint Resolutions of S. C., 1950, No. 873, sec. 21).

III. MISCELLANEOUS STATUTORY PROVISIONS RELATING TO WATER POLLUTION

It is a misdemeanor for anyone to maintain or use a dry well or other wells or a privy vault into which sewerage matter is discharged in any municipality having a population of not less than 500 when such municipality has no public general supply of water for personal or domestic uses (Sec. 16-568).

It is unlawful for any vessel within any harbor in the State to discharge any seepage or refuse of fuel oil or any other oil product. Violation is a misdemeanor punishable by a fine of not exceeding $500.00. If the fine is not paid it is a lien on the vessel (Sec. 54-453).

It is unlawful for any person to dump or discharge intentionally any products, waste, or refuse of fuel oil, petroleum or coal at any place within the State from which it drains into waters of any harbor in any county of the State containing a city of more than 60,000. Violation is a misdemeanor punishable by a fine of not exceeding $500.00 or imprisonment not exceeding 6 months, or both (Sec. 54-454).

The depositing of any dyestuffs, coal tar, oil, sawdust, poison or other deleterious substances in any waters, fresh or salt, which are frequented by game fish, in quantities sufficient to injure or kill any fish or shellfish or which is destructive to their spawn, is unlawful. Violation carries a fine of not less than $300.00 nor more than $1000.00, or imprisonment for not less than 3 months nor more than 1 year, or both (Sec. 28-671).

It is unlawful to poison a stream or other waters of the State for the purpose of taking fish, or to cast into any creek, stream or inland waters any impurities that are poisonous to fish or destructive to their spawn. Violation carries a fine or imprisonment (Secs. 28-672, 28-673).

No one is permitted to use dynamite, gun powder, lime or any other explosive in any State water for the purpose of taking fish. Violation is a misdemeanor (Sec. 28-674).

It is unlawful for anyone to defile or corrupt the public water supply of the City of Greenville or the watershed from which its supply is taken (Acts and Joint Resolutions of S.C., 1957, No. 283, to be added to the Code as sec. 32-1211).

It is unlawful for anyone to pollute the water supply of any municipality of the State. Violation is a misdemeanor (Secs. 59-423, 59-427).

No septic tank effluent is permitted to be discharged into any stream without special approval of the county Board of Health through a duly authorized agent (Sec. 32-1268).